

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**DRK INTERESTS LLC**

**Plaintiff,**

**vs.**

**UNION INSURANCE COMPANY,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO.: 5:21-cv-1081**

---

**DEFENDANT UNION INSURANCE COMPANY'S  
NOTICE OF REMOVAL**

---

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant Union Insurance Company ("Union") respectfully petitions this Court for removal of the above-entitled action to the United States District Court for the Western District of Texas from the 131st Judicial District Court of Bexar County, Texas, and for its Notice of Removal states:

**I.  
REMOVAL JURISDICTION**

1. Under 28 U.S.C. § 1441(a), "any civil action brought in State court of which the district courts of the United States have original jurisdiction, may be removed by defendant(s), to the district court of the United States for the district and division embracing the place where such action is pending."

2. This action, entitled *DRK Interests LLC v. Union Insurance Company*, pending in the 131st Judicial District Court of Bexar County, Texas, Cause No. 2021CI18736, was

commenced via the filing of Plaintiff's Original Petition on September 7, 2021. *See* Index of Documents Filed in State Court, Ex. B.

3. Plaintiff filed an Amended Petition on October 8, 2021. *See id.*

4. Defendant was served on October 14, 2021. Accordingly, this notice of removal is timely filed pursuant to 28 U.S.C. § 1446(b).

## **II.** **VENUE**

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) because the state court where the suit has been pending is located in this district.

## **III.** **CITIZENSHIP OF THE PARTIES AND JURISDICTION**

6. Plaintiff DRK Interests LLC is a Texas Limited Liability Company that owns a commercial strip center building located in Bexar County, Texas. Upon information and belief, the sole member of Plaintiff is an individual resident and citizen of Texas.

7. Union is a corporation formed under the laws of Iowa with its principal place of business in Iowa. As such, Union is a citizen of Iowa.

8. Accordingly, removal is proper to the United States District Court for the Western District of Texas because complete diversity exists between the parties under 28 U.S.C. § 1332.

## **IV.** **AMOUNT IN CONTROVERSY**

9. Plaintiff alleges causes of action against Defendant for breach of contract, violations of the Texas Insurance Code, unfair insurance practice, and violations of the Texas Deceptive Trade Practice Act ("DTPA"). This is a civil action in which the amount in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs. Plaintiff has indicated it seeks monetary relief over \$250,000.00, but not more than \$1,000,000.00, which it believes it is entitled

to under the claim. Thus, it is apparent from Plaintiff's Original and Amended Petitions that the damages sought by Plaintiff are greater than \$75,000.00. Therefore, the amount in controversy requirement of 29 U.S.C. § 1332(a) is satisfied.

**V.**  
**ATTACHMENTS**

10. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Acadia in the state court action are attached to this notice. *See* Index of Documents Filed in State Court. Further, in accordance with L.R. 81.1, the following are also attached to this notice:

- 1) A completed cover sheet;
- 2) An index of all documents that clearly identifies each document and indicates the date the document was filed in state court;
- 3) A copy of the docket sheet in the state court action;
- 4) Each document filed in the state court action; and,
- 5) A separately signed certificate of interested persons is also attached to this notice.

**VI.**  
**NOTICE TO STATE COURT**

11. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this notice of removal will promptly be given to all parties and to the clerk of the 131st Judicial District Court, Bexar County, Texas.

12. Pursuant to Federal Rule of Civil Procedure 38, Defendant demands a trial by jury.

**VII.**  
**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully gives notice that this state court action has been removed and placed on this Court's docket for further proceedings. Defendant further requests any additional relief which it may be justly entitled.

Respectfully submitted,

/s/Jennifer G. Martin  
JENNIFER G. MARTIN  
Texas Bar No. 00794233  
Email: [Jennifer.martin@wilsonelser.com](mailto:Jennifer.martin@wilsonelser.com)  
**WILSON ELSEER MOSKOWITZ**  
**EDELMAN & DICKER, LLP**  
901 Main Street, Suite 4800  
Dallas, Texas 75202-3758  
Telephone: (214) 698-8000  
Facsimile: (214) 698-1101

**ATTORNEY FOR DEFENDANT**  
**UNION INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been forwarded to counsel of record in accordance with the Federal Rules of Civil Procedure, on this 3<sup>rd</sup> day of November, 2021.

Marc K. Whyte  
Whyte, PLLC  
2101 NW Military Hwy.  
San Antonio, TX 78213  
[mwhyte@whytepllc.com](mailto:mwhyte@whytepllc.com)

/s/Jennifer G. Martin  
JENNIFER G. MARTIN